§ 709.4 Cause for suspension of entities from eligibility.

Any entity which has been convicted of an offense related to a project insured or otherwise supported by OPIC may be suspended from eligibility for additional OPIC services for a period of not more than 5 years pursuant to a suspension determination.

§ 709.5 Procedure.

(a) Upon receipt of an application for OPIC services from any entity which OPIC has reason to believe may have been convicted under the Act the OPIC General Counsel shall ascertain whether a conviction has been entered against such entity under the Act and, if so, whether it was entered for an offense related to a project insured or otherwise supported by OPIC. If such an offense is found, the General Counsel shall advise the President of such finding and any known circumstances indicating that suspension would not be in the national interest of the United States. If, after reviewing the submission from the General Counsel, the President determines that national interest considerations are not great enough to preclude suspension, OPIC shall furnish the subject entity with a written notice (1) specifying the offense and stating that suspension for the maximum duration is being considered and (2) inviting the subject entity to submit to OPIC any evidence of facts or circumstances which it deems appropriate to indicate that a suspension should not be imposed or that the duration of the suspension should be less than the maximum. Such notice shall further state that the subject entity must provide such evidence within 30 days of the date of such written notice or any extension of time granted in writing by OPIC. The General Counsel shall promptly review any evidence submitted by the subject entity and report his findings and recommendations to the President. The President shall determine whether the subject entity shall be suspended and, if so, the President shall issue a suspension determination specifying the duration of such suspension. Notice of such suspension determination shall be forwarded by registered mail to the subject entity and any entity so notified shall be ad-vised that such suspension may be reduced as provided in section 5(b) or voided as provided in section 8.

(b) The duration of any suspension may be reduced by the President at any time for good cause, including the submission by the suspended entity of an application for relief, supported by evidence and setting forth appropriate grounds for granting such relief, such as the institution of measures designed to preclude the recurrence of the actions with respect to which the suspension was initially imposed. Notice of each such reduction shall be forwarded to the suspended entity by registered mail.

(c) The duration of any suspension may be increased by the President at any time for good cause, subject to providing the subject entity with notice and opportunity to submit evidence in accordance with section 5(a). In no event shall any such increase result in a period of suspension exceeding 5 years with respect to any single conviction.

§ 709.6 Suspension duration criteria.

Factors which the President may consider in setting or amending the duration of any suspension imposed pursuant to these regulations include, but are not limited to, the following:

(a) Whether the offense with respect to which suspension has been imposed or is being considered was committed with the knowledge or consent of the board of directors or other group or officer or individual responsible for the overall management of the subject entity;

(b) Whether or not such offense was committed under pressure of extortion, political intervention, or other duress exerted by the government, or any official of the government, of the country in which such offense was committed;

(c) Quantitative factors relating to the seriousness of the offense, such as the amounts of any improper payments and the frequency with which, and period of time over which, they were made;

(d) The purpose of any such offense;

(e) Whether such offense violated the laws of the country in which it was committed;